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Attorneys for Sonos, Inc.

15 UNITED STATES DISTRICT COURT
16 NORTHERN DISTRICT OF CALIFORNIA
17 SAN FRANCISCO DIVISION

18 SONOS, INC.,

Case No. 3:20-cv-06754-WHA

19 Plaintiff and Counter-Defendant,

Consolidated with
Case No. 3:21-cv-07559-WHA

20 v.

21 GOOGLE LLC,

**DECLARATION OF COLE B.
RICHTER IN SUPPORT OF
GOOGLE'S ADMINISTRATIVE
MOTION TO CONSIDER WHETHER
ANOTHER PARTY'S MATERIAL
SHOULD BE SEALED (DKT. 689)**

22 Defendant and Counter-Claimant.

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1 I, Cole B. Richter, declare as follows and would so testify under oath if called upon to do
 2 so:

3 1. I am an attorney with the law firm of Lee Sullivan Shea & Smith LLP, counsel of
 4 record to Sonos, Inc. (“Sonos”) in the above-captioned matter. I am a member in good standing
 5 of the Bar of the State of Illinois. I have been admitted *pro hac vice* in this matter. I make this
 6 declaration based on my personal knowledge, unless otherwise noted. If called, I can and will
 7 testify competently to the matters set forth herein.

8 2. I make this declaration in support of Google LLC’s (“Google”) Administrative
 9 Motion to Consider Whether Another Party’s Material Should be Sealed filed on May 8, 2023
 10 (Dkt. 689) (“Administrative Motion to Consider”), in connection with Google’s Objection to
 11 Sonos’s Demonstrative Disclosures For Mr. James Malackowski (“Google’s Objection”).

12 3. Sonos seeks an order sealing the materials as listed below:

Document	Portions Google Sought to Be Filed Under Seal	Portions Sonos Seeks to Be Filed Under Seal	Designating Party
Google’s Objection	Portions highlighted in blue	Portions highlighted in blue on pages 1 and 3	Sonos
Exhibit 1 to the Declaration of Lindsay Cooper in Support of Google’s Objection	Entire Document	Entire Document	Sonos
Exhibit 2 to the Declaration of Lindsay Cooper in Support of Google’s Objection	Entire Document	Entire Document	Sonos
Exhibit 3 to the Declaration of Lindsay Cooper in Support of Google’s Objection	Entire Document	Entire Document	Sonos

26 4. I understand that the Ninth Circuit has recognized two different standards that may
 27 apply to a request to seal a document, the “compelling reasons” standard and the “good cause”
 28

1 standard. *Blessing v. Plex Sys., Inc.*, No. 21-CV-05951-PJH, 2021 WL 6064006, at *12 (N.D.
 2 Cal. Dec. 22, 2021) (citing *Ctr. For Auto Safety v. Chrysler Grp., LLC*, 809 F.3d 1092, 1096-97
 3 (9th Cir. 2016)). The compelling reasons standard applies to any sealing request made in
 4 connection with a motion that is “more than tangentially related to the merits of a case.” *Id.*
 5 Accordingly, I understand courts in this district apply a “compelling reasons” standard to a
 6 sealing request made in connection with a motion for summary judgment. *See, e.g., Snapkeys,
 7 Ltd. v. Google LLC*, No. 19-CV-02658-LHK, 2021 WL 1951250, at *2 (N.D. Cal. May 14, 2021).

8 5. I further understand that confidential technical information about product features,
 9 architecture, and development satisfies the “compelling reason” standard. *See Delphix Corp. v.
 10 Actifio, Inc.*, No. 13-cv-04613-BLF, 2014 WL 4145520, at *2 (N.D. Cal. Aug. 20, 2014) (finding
 11 compelling reasons to seal where court filings contained “highly sensitive information regarding
 12 [an entity’s confidential] product architecture and development”); *Guzik Tech. Enters., Inc. v. W.
 13 Digital Corp.*, No. 5:11-CV-03786-PSG, 2013 WL 6199629, at *4 (N.D. Cal. Nov. 27, 2013)
 14 (sealing exhibit containing “significant references to and discussion regarding the technical
 15 features” of a litigant’s products). Under this “compelling reasons” standard, the Court should
 16 order the above-listed documents sealed.

17 6. The portions identified in the table above for Google’s Objection and Exhibits 1, 2
 18 and 3 to the Cooper Declaration reference and contain Sonos’s confidential business information
 19 and trade secrets, including the details of Sonos’s confidential licenses and license offers with
 20 third parties, including Google. Sonos’s licensing practices, history, and previous license
 21 agreements are all confidential information that Sonos does not share publicly. Thus, public
 22 disclosure of such information may lead to competitive harm as Sonos’s competitors could use
 23 these details to gain a competitive advantage in the marketplace. A less restrictive alternative
 24 than sealing said documents would not be sufficient because the information sought to be sealed
 25 is Sonos’s confidential business information and trade secrets and Google contends that this
 26 information is necessary to Google’s Brief. *See* Declaration of Lindsay Cooper in support of
 27 Google’s Objection (Dkt. 690-1) ¶¶ 2-4.
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7. Sonos's request is narrowly tailored to protect its confidential information.

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge. Executed this 15th day of May, 2023 in San Francisco, CA.

/s/ Cole B. Richter

COLE B. RICHTER

DECL. OF RICHTER ISO GOOGLE'S ADMIN. MOTION TO
CONSIDER WHETHER ANOTHER PARTY'S MATERIAL
SHOULD BE SEALED (DKT. 689)
3:20-cv-06754-WHA